STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~STRIKEOUT~~
NEW LANGUAGE: UNDERLINE

(O-2006-88)

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 9, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING DIVISIONS 1-3, PERTAINING TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; AND AMENDING CHAPTER 11, ARTICLE 3, DIVISION 2, BY AMENDING SECTION 113.0267; AMENDING CHAPTER 12, ARTICLE 1, DIVISION 5, BY AMENDING SECTION 121.0505; AMENDING CHAPTER 12 ARTICLE 4, DIVISION 1, BY AMENDING SECTION 124.0106; AMENDING CHAPTER 12 ARTICLE 6, DIVISION 3, BY AMENDING SECTION 126.0303; AMENDING CHAPTER 12, ARTICLE 8, DIVISION 3, BY AMENDING SECTIONS 128.0310, AND 128.0313; AMENDING CHAPTER 12, ARTICLE 9, BY AMENDING SECTIONS 129.0102, 129.0211, 129.0218, 129.0219, 129.0312, AND 129.0413; AMENDING CHAPTER 13 ARTICLE 1, DIVISION 4, BY AMENDING SECTION 131.0443; AMENDING CHAPTER 13, ARTICLE 2, DIVISION 3, BY AMENDING SECTION 132.0306; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 10, BY AMENDING SECTION 141.1004; AMENDING CHAPTER 14, ARTICLE 2, BY AMENDING SECTIONS 142.0505, 142.0820, 142.1250, 142.1270, AND 142.1291; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 143.0101; AMENDING CHAPTER 14, ARTICLE 4, DIVISION 5, BY AMENDING SECTION 144.0504; AMENDING CHAPTER 14, ARTICLE 5, DIVISION 4, BY AMENDING SECTIONS 145.0410, AND 145.0425, OF THE SAN DIEGO MUNICIPAL CODE, RELATING TO THE LAND DEVELOPMENT CODE.

~~§69.0101 Purpose~~

~~Pursuant to the California Environmental Quality Act (Public Resources Code, Section 21000, et seq., herein "the Act" or "CEQA") and State CEQA Guidelines Title 14, California Code of Regulations, Section 15000, et seq., herein "the Guidelines" or "State CEQA Guidelines"), it is incumbent upon the City of San~~

~~Diego as a public agency to protect the interest of the public in securing, maintaining, preserving, protecting, rehabilitating and enhancing the environment within the City of San Diego. This Article has been enacted by the Council to attain that purpose, and to give effect to the Act and the Guidelines within the City of San Diego.~~

~~§69.0102 Citation of Article~~

~~This article shall be known and may be cited as the "Environmental Quality Ordinance of the City of San Diego."~~

~~§69.0103 Declaration of Council Findings and Intent~~

~~The Council, concurring with the State Legislature, finds and declares as follows:~~

~~(a) The maintenance of a quality environment for the people of this City now and in the future is a matter of city-wide concern.~~

~~(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of humans.~~

~~(c) There is a need to understand the relationship between the maintenance of high quality ecological systems and the general welfare of the people of the City, including their enjoyment of the natural resources of the City.~~

~~(d) The capacity of the environment is limited, and it is the intent of the Council that City agencies take immediate steps to identify any critical thresholds for the health and safety of the people of the City and take all coordinated actions necessary to prevent such thresholds being reached.~~

~~(e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.~~

~~(f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.~~

~~(g) It is the intent of the Council that all City agencies which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage.~~

~~§69.0104 Declaration of City Policy: Protection of Environmental Quality~~

~~The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City to:~~

(a) Develop and maintain a high-quality environment now and in the future, and take all actions necessary to protect, rehabilitate, and enhance the environmental quality of the City.

(b) Take all actions necessary to provide the people of this City with clean air and water, enjoyment of aesthetic, natural, scenic and historic environmental qualities, and freedom from excessive noise.

(c) Prevent the elimination of fish or wildlife species due to human activity, insure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California and San Diego history.

(d) Ensure that the long-term protection of the environment shall be the guiding criterion in public decisions.

(e) Create and maintain conditions under which humans and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.

(f) Require City agencies at all levels to develop standards and procedures necessary to protect environmental quality.

(g) Require City agencies at all levels to consider qualitative factors as well as economic and technical factors, and long-term benefits and costs in addition to short-term benefits and costs, and to consider alternatives to proposed actions affecting the environment.

§69.0105 Declaration of City Policy: Approval of Projects

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

(a) City agencies shall not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.

(b) The procedures required by this article are intended to assist City and other public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.

(c) In the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved notwithstanding one or more significant effects thereof.

§69.0106 Declaration of City Policy: Use of Environmental Impact Reports

In order to achieve the objectives set forth in Section 69.0105 the Council, concurring with the State Legislature, finds and declares that the following policy shall apply to the use of environmental impact reports:

(a) The purpose of an environmental impact report is to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided.

(b) Each City agency shall mitigate or avoid the significant effects on the environment of projects it approves or carries out whenever it is feasible to do so.

(c) In the event that specific economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, such project may nonetheless be approved or carried out at the discretion of the City agency, provided that the project is otherwise permissible under applicable laws and regulations.

(d) In applying the policies of subsections B and C to individual projects, the responsibility of a City agency which is functioning as a lead agency shall differ from that of a City agency which is functioning as a responsible agency. A City agency functioning as a lead agency shall have responsibility for considering the effects, both individual and collective, of all activities involved in a project. A City agency functioning as a responsible agency shall have responsibility for considering only the effects of those activities involved in a project, which it is required by law to carry out or approve.

§69.0107 Declaration of City Policy: Environmental Review Process

The Council, concurring with the State Legislature, further finds and declares that it is the policy of the City that:

(a) City agencies integrate the requirements of this article with planning and environmental review procedures otherwise required by law or by local practice so that all such procedures, to the maximum feasible extent, run concurrently, rather than consecutively.

(b) Documents prepared pursuant to this article be organized and written in such a manner that they will be meaningful and useful to decision- makers and to the public.

(c) Environmental impact reports omit unnecessary descriptions of projects and emphasize feasible mitigation measures and alternatives to projects.

(d) Information developed in individual environmental impact reports be incorporated into a data base which can be used to reduce delay and duplication in preparation of subsequent environmental impact reports.

(e) Information developed in environmental impact reports covering larger geographical areas be used to contribute to information required in specific environmental impact reports.

§69.0108 Incorporation of The Act by Reference

The California Environmental Quality Act and the Guidelines, insofar as applicable, are herein incorporated and made a part of this Article as fully as though set forth herein, and all officers and employees of the City of San Diego are hereby authorized and directed to enforce and comply with each and every applicable provision of said Act and Guidelines.

§69.0109 Definitions

For purposes of this Article, the definitions contained in the Act and the Guidelines apply, except as to the following terms which have the meaning hereby assigned:

(a) The term "City" has the same meaning as set forth in Section 11.0301(b).

(b) The term "City agency" means any agency, board, commission, committee, office, department, division or other organizational unit or subunit of the City of San Diego municipal government.

(c) The term "DEP" means the Development and Environmental Planning Division of the Development Services Department.

(d) The term "Director" means the Director of the Development Services Department.

§69.0110 Construction

To the extent of any inconsistency or conflict between the provisions of the Act and Guidelines and the provisions of this Article and procedures adopted pursuant thereto, the provisions of the Act and the Guidelines shall control.

This Article shall be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.

§69.0201 Purpose

The purpose of the procedures set forth in Article 9, Divisions 1 through 3 is to implement CEQA and the State CEQA Guidelines, and to provide the City of San Diego with objectives, criteria, and specific procedures consistent with CEQA and the State CEQA Guidelines for administering its responsibilities under CEQA, including the timely and orderly evaluation of projects and preparation of environmental documents. The procedures and provisions of this article are intended to supplement the State CEQA Guidelines and to provide additional guidelines for implementing CEQA and evaluating projects in the City.

§69.0202 Authority

The procedures set forth in Article 9 are adopted by the City Council pursuant to Section 21082 of CEQA and Section 15022 of the State CEQA Guidelines.

§69.0203 Implementation Procedures

All City agencies, in cooperation with DEP, shall systematically review and evaluate the ordinances, plans, policies, standards, criteria, procedures and practices under which they conduct their activities that may affect the quality of the environment and shall make or propose such changes in their activities that will further the purpose, intent and policies of this Article. City agencies shall carry out their responsibilities for preparing and reviewing environmental documents within a reasonable period of time. The Deputy Director is authorized to issue administrative guidelines consistent with CEQA, CEQA Guidelines, current case law and City Council Policy to assist City staff, project applicants and the public in meeting and understanding the requirements of CEQA and this Article. Subject to City Council approval, the Deputy Director shall adopt procedures for resolving disputes on environmental document processing issues.

§69.0204 Powers and Duties of the Development and Environmental Planning Division

The Director shall be responsible for conducting environmental reviews and making determinations in accordance with CEQA regarding the environmental significance of projects and the type of environmental documents required for all projects or activities that are subject to discretionary approval by the City proposed by private applicants, the City, or other public agencies. DEP shall also conduct those activities, prepare appropriate reports and perform such services as set forth in this Article, CEQA, and the State CEQA Guidelines. The requirements for the preparation of environmental documents should not cause undue delays in the processing of applications for permits or other entitlements for use.

DEP shall establish and maintain that degree of independence in the performance of its functions and duties as will assure the City Council, the City Manager, the Planning Commission and the people of the City of San Diego that the review and

analysis of the environmental consequences of projects under its purview, whether beneficial or detrimental, are in accordance with CEQA, are independent and wholly objective and are not prepared for the purpose of either supporting or detracting from any project, plan or position, whether advanced by the City, the Planning Department, Development Services Department, any other governmental agency, a developer, a citizen or a group of citizens. DEP shall, in addition, work with and encourage project applicants to incorporate and effect all feasible environmental mitigation measures or project alternatives to minimize, if not preclude, adverse impacts to the environment from the project, consistent with CEQA.

§69.0205 Development and Environmental Planning Division Preparation of Reports and Declarations

After an application for a discretionary permit or action is determined to be complete, DEP shall conduct an initial study of the project to determine whether an environmental document will need to be prepared. DEP shall notify the applicant in accordance with Section 15060 of the CEQA Guidelines of the scope of the environmental document and the additional information required. The time limits set forth in Section 21151.5 of CEQA for preparation of environmental impact reports and negative declarations are hereby adopted and established. The time limits for document preparation and review shall be coordinated with the provisions of the Permit Streamlining Act, Government Code section 65920, et. seq., except that time limits may be suspended as provided in Section 15109 of the Guidelines.

Any environmental impact report or negative declaration prepared pursuant to the requirements of this Article shall be prepared directly by, under contract to, or under the supervision of DEP. The City Manager or Development Services Director is authorized to retain consultants, when appropriate, to implement the provisions of this section and expend funds collected pursuant to Section 69.0206 of this Code for such purposes. DEP may choose one of the following arrangements, or a combination thereof, for preparing a draft environmental report:

(a) Preparing the draft environmental report with its own staff.

(b) Contracting with another entity, public or private, to prepare the draft environmental report.

(c) Executing a three-party agreement or memorandum of understanding, as appropriate, with the applicant and an independent environmental consultant to govern the preparation of a draft environmental report through the means of an independent contractor.

(d) Causing a draft environmental report to be prepared by an environmental consultant retained by the applicant, based on a scope of issues letter

~~prepared by DEP. Reports prepared in this manner shall be subject to the independent review and analysis set forth in Section 69.0204 and shall not be released for public review until DEP staff determines they are adequate.~~

~~DEP is responsible for implementation of the three- party agreement or memorandum of understanding for preparation of environmental reports, and ensuring that only qualified environmental consultants prepare such reports.~~

~~This section is not intended to prohibit, and shall not be construed as prohibiting, any person from submitting information to DEP. Such information may be submitted in any format and may be included in whole or in part in any such report or declaration.~~

~~An environmental report prepared pursuant to Section 69.0205 shall reflect the independent judgment and evaluation of DEP as to its adequacy and objectivity. Prior to the distribution of the draft environmental report for public review, the Deputy Director shall ensure that the draft report, to the maximum extent possible, incorporates the latest pertinent technical or scientific information and is factually accurate and consistent.~~

~~§69.0206 Fees From Party Proposing Project~~

~~DEP shall charge a reasonable fee and collect a deposit from any party proposing a project subject to the provisions of this Article in order to fully recover all reasonable costs incurred by the City in preparing and supervising an environmental impact report, negative declaration or mitigation monitoring program for each project. The Development Services Director shall prepare and submit to the Council an appropriate fee schedule. The schedule shall become effective on its approval by Council resolution, and be published in the composite rate book by the City Clerk.~~

~~§69.0207 Noticing Requirements~~

~~Notice of availability of environmental reports for public review and comment shall be given by DEP using the following procedures:~~

~~(a) The notice of availability shall be published one time in the officially designated City newspaper, and shall be sent by DEP to all organizations and individuals who have previously requested such notice and to the public library serving the area involved. A copy of the notice of availability shall also be sent to the officially recognized community planning group representing the planning area involved.~~

~~(b) A copy of the notice of availability may also be sent by DEP to a community newspaper within the recognized community planning area.~~

§69.0208 Public Review and Comment

Other public agencies and members of the public shall have the following time periods to review and comment on draft environmental impact reports and supplements, negative declarations and addenda:

(a) Negative Declarations

(1) When a negative declaration is not required to be submitted to the State Clearinghouse for review by state agencies, then the public review period shall be a minimum of 21 calendar days.

(2) When a negative declaration is required to be submitted to the State Clearinghouse for review by state agencies, the public review period shall be a minimum of 30 calendar days unless a shorter period is approved by the State Clearinghouse.

(b) Draft Environmental Impact Reports and Supplements

(1) When a draft environmental impact report or a supplement is not required to be submitted to the State Clearinghouse for review by state agencies, then the public review period shall be a minimum of 30 calendar days.

(2) When a draft environmental impact report or a supplement is required to be submitted to the State Clearinghouse for review by state agencies, then the public review period shall be a minimum of 45 calendar days, unless a shorter period is approved by the State Clearinghouse.

(c) Addenda

All addenda for environmental documents certified more than three years previously shall be distributed for public review for fourteen (14) calendar days along with the previously certified environmental impact report or negative declaration pursuant to section 69.0211; provided, however, that this review period for the addenda shall not extend the time for action beyond that required under law, and provided further that the failure to allow review of addenda or allow sufficient time to review addenda shall not invalidate any discretionary agency approval based upon an addendum under review.

(d) Additional Review Time

An additional review period not to exceed 14 calendar days may be allowed by the Deputy Director for good cause shown upon request of the affected officially recognized community planning group; provided, however, that the additional time for review shall not extend the time for

action beyond that required under law, nor shall the failure to allow additional time for review invalidate any discretionary agency approval based upon the document for which the additional review time was requested. The Deputy Director shall adopt guidelines subject to City Council approval under which "good cause" may be shown.

(e) Recertification and Reissuance of Previous Environmental Report.

When a previously certified environmental impact report or negative declaration, including any supplement or addendum, adequately covers additional discretionary actions on the same project and accurately analyzes the environmental impacts, and the circumstances surrounding the project are essentially the same, then that document may be reissued for use by the decisionmaking body under an explanatory cover letter certifying that none of the conditions specified in Section 21166 of the Act apply. The decisionmaker shall certify or recertify as necessary that the appropriate environmental documents have been considered prior to discretionary actions on the project. Public review may be required pursuant to Section 15153 of the CEQA Guidelines when the document is to be used in connection with the discretionary approval of another project.

§69.0209 Responses to Comments

Written responses shall be prepared by DEP or under the supervision of DEP to letters of comment received during the public review period for all environmental impact reports, negative declarations, supplements, and addenda and be attached to the environmental document.

§69.0210 Findings and Statement of Overriding Considerations

The following procedures are established for the preparation of Findings and the Statement of Overriding Considerations pursuant to Sections 15091 and 15093, respectively, of the State CEQA Guidelines, when significant impacts are identified in a Draft Environmental Impact Report (DEIR):

(a) Draft candidate findings shall be submitted to DEP prior to the distribution of the DEIR for public review. Draft candidate findings are not subject to public review at this time. If the draft candidate findings state that mitigation measures and project alternatives are not feasible for physical, social or other grounds, then the record must demonstrate justification for such conclusions.

If the draft candidate findings state specifically that mitigation measures and project alternatives identified in the draft environmental impact report are not economically feasible, then the record shall demonstrate the economic infeasibility of the mitigation measures to support the findings. In making the findings, DEP shall not require disclosure of material that

~~meets the definition of and would be classified by the applicant as a "trade secret" within the meaning of Public Resources Code Section 21160. If, however, the applicant elects to furnish a "trade secret," then the applicant may furnish the "trade secret" to DEP, and DEP shall accord the protection to the "trade secret" required by law.~~

~~(b) The City department or division which is responsible for making a recommendation on the project to the decisionmaker shall, in conjunction with DEP, review the supporting documentation and information to determine whether or not substantial evidence exists to support the draft candidate findings.~~

~~(1) If, in the opinion of the recommending department or division and DEP, the documentation is insufficient to support the draft candidate findings, and the applicant does not provide additional requested necessary information, the Deputy Director shall advise the decisionmaker that the record is considered inadequate and that it would not be possible to recommend approval of the project as proposed.~~

~~The applicant is thereafter responsible for providing to the decisionmaker any additional oral information or written documentation for the record at the time of the public hearing or other discretionary action to support making the findings and statement of overriding considerations necessary for approval of the proposed project.~~

~~(2) If the recommending department or division and DEP determine the information and documentation is sufficient to support the draft candidate findings and any associated proposed statement of overriding considerations, then the recommending department or division in conjunction with DEP shall prepare the findings and statement of overriding considerations for the decisionmaker. Any additional information and documentation provided by the applicant at the public hearing shall be included as an attachment to the record prepared for the decision.~~

~~(c) The draft candidate findings and proposed statement of overriding considerations shall be completed and be available with copies of the final environmental impact report 14 calendar days prior to the first public hearing or discretionary action on the project.~~

~~(d) If, prior to making a decision, the decisionmaker determines that substantive additional information has been presented at the public hearing requiring further review, then the decisionmaker may refer such information to DEP for analysis, provided such referral does not adversely affect any time limitations imposed by law.~~

(e) The adopted findings and the statement of overriding considerations shall be based on the entire record of proceedings and be finalized by DEP in consultation with the applicant and the City Clerk and the recommending department or division when appropriate.

§69.0211 Addenda to Environmental Reports

DEP shall be responsible for determining whether to prepare an addendum to an environmental impact report or negative declaration pursuant to Section 15164 of the State CEQA Guidelines. These may be prepared provided no substantial changes have occurred pursuant to CEQA Guidelines section 15162 which require an environmental document, addenda for environmental documents certified more than three (3) years previously shall be distributed by DEP for public review for a fourteen (14) calendar day period, along with the previously certified Environmental Impact Report or negative declaration. DEP shall evaluate written comments on draft addenda in accordance with Section 15088 of the State CEQA Guidelines and incorporate the comments and responses into the final addenda and record. Failure by DEP to provide all or a portion of the review period shall not preclude discretionary action on the project when necessary to avoid conflict with time limits imposed by law.

§69.0212 Final Report Distribution and Review

DEP shall make all final environmental reports available to the public and decision makers at least fourteen (14) calendar days prior to the first public hearing or discretionary action on the project. DEP shall also mail copies of final environmental reports to the public, including but not limited to community planning groups or others, as appropriate, no later than fourteen (14) calendar days prior to the first public hearing or discretionary action. Pursuant to Public Resources Code section 21092.5, DEP shall provide a final environmental impact report to a public agency that commented on the draft document ten (10) days prior to certification of the Document. No comments shall be solicited and no written responses to comments on final environmental reports shall be prepared. The intent of this review period is to provide other public agencies, the public, and the decisionmakers the opportunity to review the final report prior to the first public hearing or discretionary action on the project. Notwithstanding, failure to provide this fourteen (14) calendar day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project when necessary to avoid conflict with time limits imposed by law.

§69.0213 Discretionary Extensions of Time

All discretionary extensions of time (DEOTs) to previously approved discretionary actions shall be subject to environmental review, and shall not be considered as on-going projects. The DEOT shall be evaluated pursuant to Sections 15162 through 15164 of the State CEQA Guidelines to determine the appropriate environmental report, if any, necessary to address the DEOT. All

administrative extensions of time for final subdivision maps authorized pursuant to Government Code Section 66452.6(a) (Subdivision Map Act) are ministerial actions and are not subject to additional environmental review.

§69.0214 Demolition Permits

(a) Except as otherwise provided in Section 69.0214.B or the Act, an application for a demolition permit shall be subject to environmental review where the demolition is an integral part of a pending application for a development project requiring discretionary approval, or where such demolition itself is regulated under a discretionary approval process such as the Hillside Review Overlay Zone (Sec. 101.0454) or Historical Site review (Sec. 26.0205). No demolition permit subject to environmental review shall be issued until the environmental review process is complete and the potential impacts associated with the demolition permit have been considered.

(b) Section 69.0214.A shall not apply to: (1) demolitions conducted pursuant to judicial or administrative abatements; (2) emergency demolitions necessary to protect public health and safety; or (3) demolitions conducted pursuant to ministerial demolition permits.

§69.0215 Reporting and Monitoring Programs

When the conditions of project approval require mitigation and monitoring, the City Manager and the Development Services Director are responsible for promulgating mitigation and monitoring standards and guidelines for public and private projects consistent with the requirements of Section 21081.6 of the Act. Appropriate surety instruments or bonds may be required of private project applicants to ensure the long term performance or implementation of required mitigation measures or programs. The City is authorized to recover its costs to offset the salary, overhead and expenses for City personnel and programs to monitor qualifying projects.

§69.0216 Habitat Acquisition

When a condition of project approval requires habitat acquisition or preservation of a habitat as a feasible mitigation measure for offsetting or avoiding significant effects on the environment caused by the project, the City Development Services Director in conjunction with the City Manager is hereby authorized to enter into agreements with other public agencies or private non-profit conservancies or foundations for the acquisition and maintenance of such habitat, when and if appropriate. When the affected habitat area is small and isolated, and it has been determined that the applicant cannot feasibly provide like-kind replacement, the applicant may instead pay monetary compensation into a fund administered by the City or other agency to be used for habitat acquisition or preservation of another habitat.

§69.0217 Erroneous Information in Environmental Impact Reports

If, following the certification of an Environmental Impact Report (EIR) in connection with a project approval, it appears that the EIR contains erroneous information, and that this information was both material to and had a substantial effect on the findings and conclusions of the EIR and any related statement of overriding considerations, DEP shall determine the effect and any need for corrective action. If DEP finds correction is necessary and cannot be made pursuant to the provisions of the Act and Guidelines, then DEP shall make recommendations for corrective action to the permit issuing authority. The issuing authority may then schedule a hearing in accordance with the procedures used for the original issuance of the permit to first determine whether or not the permit issued under that certification may legally be revoked or modified, and second, whether it should then be revoked or modified to take into account the effect and materiality of the correct information. Section 69.0217 shall not apply if the information originally submitted was considered valid at the time of certification of the EIR but later methodology established that the information was no longer valid.

§69.0218 Enforcement

Except as otherwise provided in the Municipal Code or by other law, it is unlawful for any project applicant or permittee to do any of the following:

(a) to fail to perform a material condition related to the development of a project which was made a condition of such approval or permit issued;

(b) to do any act without the required permit; or,

(c) to fail to timely comply with, or to acquiesce in such failure to timely perform, any condition or preliminary act required by the Development Services Director, as it materially and substantially relates to the development of a project.

Violations may be enforced by criminal or civil judicial action, or both, or in combination with any of the administrative remedies enumerated in Chapter 1 of this Code.

§69.0301 Projects to which this Article Applies

Except as otherwise provided in this article, this article shall apply to discretionary projects proposed to be carried out or approved by any City agency.

§69.0302 Projects Exempt from this Article

Except as otherwise provided in this Article, this Article shall not apply to the following:

~~(a) Ministerial projects proposed to be carried out or approved by any City agency.~~

~~(b) Emergency repairs to public service facilities necessary to maintain service.~~

~~(c) Projects undertaken, carried out, or approved by any City agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.~~

~~(d) Specific actions necessary to prevent or mitigate an emergency.~~

~~(e) Feasibility or planning studies for possible future actions which have not been approved, adopted or funded.~~

~~(f) Categorically exempt projects proposed to be carried out or approved by any City agency. The Deputy Director of DEP is authorized to promulgate a list of specific projects which are potentially categorically exempt from CEQA.Projects exempted by Section 69.0302 from the preparation of an environmental impact report or negative declaration shall nevertheless include consideration of environmental factors.~~

~~§69.0303 Projects to Which NEPA Applies~~

~~When an environmental impact statement has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 and implementing regulations thereto, all or any part of such statement may be submitted in lieu of all or any part of an environmental impact report required by this article, provided that such statement, or the parts thereof so used, shall comply with the requirements of this article and the procedures adopted pursuant thereto.~~

~~§69.0304 Redevelopment Projects~~

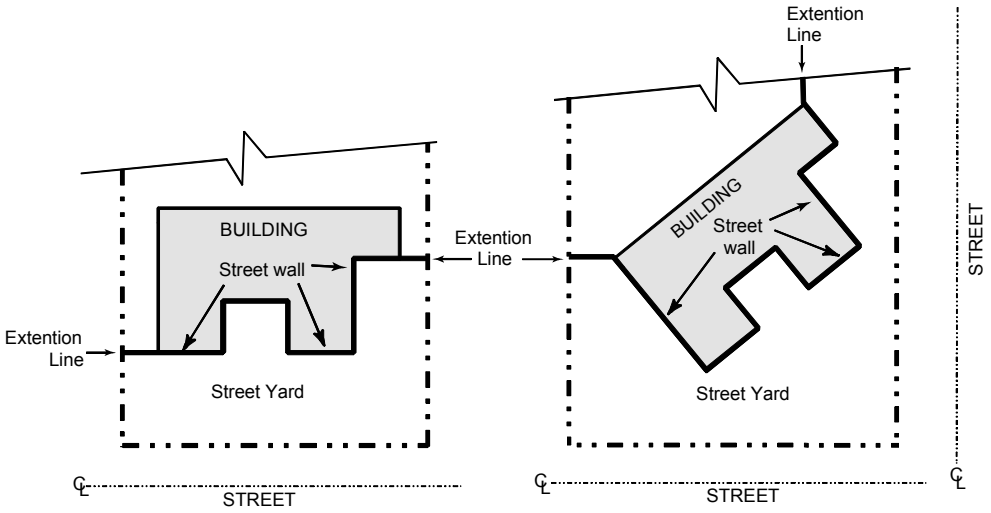
~~For all purposes of this article, all public and private activities or undertakings pursuant to or in furtherance of a redevelopment plan shall be deemed a single project.~~

§113.0267 Determining Street Wall Line

The *street wall line* is used to delineate the *street yard*. The *street wall line* includes the *street wall* plus a line extending outward from the limits of the *street wall*, as shown in Diagram 113-02HH. The extension lines shall be parallel to the

street or single plane used to determine the *building facade*. Porches more than 3 feet above *grade* and site walls that are integral in material, design, and placement with the building and which maintain a minimum height of 4 feet may be included in determining the *street wall line*. For a corner lot, the street wall line includes the street walls for both frontages.

Diagram 113-02HH Street Wall Line



§121.0505 Sign Permit Violations

(a) [No change.]

(b) It is unlawful to erect or maintain a *sign* subject to Chapter 14, Article 2, Division 12 (Sign Regulations) without a Sign Permit Sticker as required by the ~~*Sign*~~ Sign Regulations.

§124.0106 Recordation of Development Agreements

The City Clerk shall forward a copy of the Development Agreement, and an ordinance that describes the land subject to the agreement, to the County Recorder

for recordation no later than 10 *business days* after receipt of a fully executed ~~d~~Development Agreement. The agreement shall be binding upon, and the benefits of the agreement shall inure, to the parties and all successors in interest to the parties to the agreement.

§126.0303 When a Conditional Use Permit Is Required

[No change in text.]

(a) Conditional Use Permits Decided by Process Three

Agricultural equipment repair shops through Boarding kennels [No change in text.]

~~*Child care facilities*~~ Child Care Centers

Churches and places of religious assembly through Veterinary clinics and hospitals [No change in text.]

(b) through (c) [No change.]

§128.0310 Final Environmental Document Preparation, Distribution and Public Review

[No change in text.]

(a) Final Environmental Document Distribution

At least 14 calendar days before the first public hearing or discretionary action on the project, the ~~Planning and~~ Development ~~Review~~ Services Director shall make all final environmental documents, including EIR Candidate Findings and Statements of Overriding Consideration if applicable, available to the public and decision makers and shall also mail copies of final environmental documents to the officially recognized community planning groups and members of the public who commented

on the draft document. Failure to provide this 14-calendar day review period shall not be treated as a procedural defect and shall not preclude discretionary action on the project when necessary to avoid conflict with time limits imposed by law. The ~~Planning and~~ Development ~~Review~~ Services Director shall provide a final EIR to any public agency that commented on the draft consistent with CEQA.

(b) [No change.]

§128.0313 Notice of Determination

The ~~Planning and~~ Development ~~Review~~ Services Director, or City Clerk as appropriate for Process Five decisions, shall file a Notice of Determination ~~following~~ within 5 working days of the *date of final action* for each project approval for which an environmental document was considered. The contents of the Notice of Determination and procedures for its filing shall be consistent with the State CEQA Guidelines, Section 15075 and 15094.

§129.0102 When Construction Permit Procedures Apply

The following permits require construction review, and the procedures for *construction permits* apply to these permits unless stated otherwise in this article: Building Permits, Electrical Permits, Plumbing or Mechanical Permits, Demolition/Removal Permits, Grading Permits, ~~p~~Public ~~r~~Right-of-~~w~~Way Permits, and Sign Permits.

§129.0211 Closing of Building Permit Application

(a) If ~~360 calendar days have~~ one year has elapsed since the date of submittal of a Building Permit application and the *applicant* has not requested that a

Building Permit be issued, the application file shall be closed. Plans and other data submitted for review may be returned to the *applicant* or destroyed by the Building Official. To reapply, the *applicant* shall submit a new Building Permit application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is filed.

(b) The application file for City projects shall be closed after two years have elapsed since the date of submittal of a Building Permit application.

(c) The Building Official may extend a Building Permit application, for a period not exceeding 180 calendar days, if the Building Official determines that circumstances beyond the control of the *applicant* prevented issuance of the Building Permit.

(d) If a request to extend the closing date of a Building Permit application has been filed in accordance with this section, the existing Building Permit application shall be automatically extended until the Building Official has made a decision on the request for an extension.

§129.0218 Expiration of a Building Permit

(a) A Building Permit for single dwelling unit or two-dwelling unit projects, and for the relocation of structures shall expire by limitation and become void ~~24 months~~ two years after the date of permit issuance, unless an exception is granted in accordance with Section 129.0218(b). A Building

Permit for all other projects shall expire by limitation and become void four years after the date of permit issuance.

~~(b) When the permit is issued, the Building Official may approve an expiration date exceeding 24 months if the permittee can demonstrate that the complexity or size of the project makes completion of the project within 24 months unreasonable. The expiration date for the Building Permit shall be specified on the permit.~~

~~(c)~~(b) If the building or work authorized by a Building Permit has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued~~.~~ or an extension of time is approved in accordance with Section 129.0219. All Electrical, Plumbing, or Mechanical Permits associated with a Building Permit shall expire concurrently with the Building Permit.

§129.0219 Extension of Time for a Building Permit

(a) Except for relocation of *structures*, a permittee may submit to the Building Official an application for an extension of time before the expiration date of the Building Permit. The application shall be filed no later than one month in advance of the expiration date. The Building Official may extend the Building Permit one time, for a period not exceeding 180 calendar days, if the Building Official determines that circumstances beyond the control of the permittee prevented completion of the work. All

Electrical, Plumbing, or Mechanical Permits associated with a Building Permit shall be extended to expire concurrently with the Building Permit.

(b) through (d) [No change.]

§129.0312 Expiration of an Electrical Permit

An Electrical Permit shall expire by limitation and become void ~~24 months~~ 2 years after the date of permit issuance~~, unless an exception is granted in accordance with Section 129.0218(a)~~. If the work authorized by the Electrical Permit has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued. Any Electrical Permit associated with a Building Permit shall expire concurrently with the Building Permit.

§129.0413 Expiration of a Plumbing/Mechanical Permit

A Plumbing/Mechanical Permit shall expire ~~24 months~~ by limitation and become void 2 years from the date of permit issuance. If the work authorized by the Plumbing/Mechanical Permit has not received final inspection approval by the permit expiration date, all work shall stop until a new permit is issued. Any Plumbing/Mechanical Permit associated with a Building Permit shall expire concurrently with the Building Permit.

§131.0443 Setback Requirements in Residential Zones

(a) *Setbacks* in RE and RS Zones

(1) and (2) [No change.]

(3) [No change in text.]

(A) through (D) [No change.]

(E) For irregularly shaped *lots*, such as pie shaped *lots*, the *setbacks* ~~is~~ are based on the average lot width for the first 50 feet of lot depth.

(F) [No change.]

(4) [No change.]

(b) *Setbacks* in RX Zones

(1) [No change in text.]

(A) [No Change.]

(B) No more than 40 percent of the total number of dwelling units are permitted to have front *setbacks* in any one category (i.e. 10 feet, ~~13~~ 15feet, or ~~16~~ 20 feet) described in 131.0443(~~e~~b)(~~2~~1)(A); and

(C) [No change.]

(2) through (3) [No change.]

(c) through (d) [No change.]

§132.0306 Supplemental Regulations of the Comprehensive Land Use Plans

(a) [No change]

(b) [No change.]

[No change in text.]

(1) ~~*For residential*~~ For residential *development* within the 60dB CNEL contour, the applicant must demonstrate that indoor noise levels that are attributable to airport operations shall not exceed 45db. For uses not specifically identified, the City Manager shall determine the standard based upon applicable City and State

statutory and regulatory requirements. The applicant will be required to spend no more than 10% of construction costs to meet noise attenuation requirements.

(2) [No change in text.]

§141.1004 Mining and Extractive Industries

[No change in text.]

(a) through (i) [No change.]

(j) [No change.]

(1) through (3) [No change.]

(4) [No change in text.]

(A) through (C) [No change.]

(D) Other security which the State Mining and Geology Board determines are reasonably available and adequate to ensure reclamation in accordance with the California Surface Mining and ~~r~~Reclamation Action of 1975.

(5) [No change.]

(k) through (o) [No change.]

§142.0505 When Parking Regulations Apply

[No change in text.]

Table 142-05A
Parking Regulations Applicability

Type of *Development* Proposal	**Applicable Regulations**	**Required Permit Type/ Decision Process**
Any *single dwelling unit* residential *development*	Sections 142.0510 , 142.0520 and 142.0560	No permit required by this division
Any *multiple dwelling unit* residential *development*	Sections 142.0510, 142.0525 and 142.0560	No permit required by this division

Type of *Development* Proposal	Applicable Regulations	Required Permit Type/ Decision Process
Any nonresidential *development*	Sections 142.0510, 142.0530, and 142.0560	No permit required by this division
Multiple dwelling unit projects in planned urbanizing communities that are processing a ~~p~~Planned ~~d~~Development ~~p~~Permit.	Section 142.0525(c)	No permit required by this division

§142.0820 Refuse and Recyclable Materials Storage Regulations for Multiple Unit Residential Development

[No change in text.]

(a) Interior Refuse and *Recyclable Material* Storage. Each dwelling unit shall be equipped with an interior refuse and *recyclable material* storage area of at least 5 cubic feet. The storage area shall consist of at least ~~2 ½~~ 2.5 cubic feet for *recyclable material* and at least ~~2 ½~~ 2.5 cubic feet for non-recyclable material.

(b) [No change.]

§142.1250 Permanent Secondary Signs in Commercial and Industrial Zones

(a) through (g) [No change.]

(h) [No change.]

(1) [No change.]

(2) The open ~~*side*~~ side of the lobby does not front a *public right-of-way*; or

(3) [No change.]

(i) through (k) [No change.]

§142.1270 Signs in Multiple Dwelling Unit Residential Zones

[No change in text.]

(a) [No change.]

(1) *Street* address numbers are permitted, provided that the numbers do not exceed ~~½~~ .5 square foot each. Address numbers may be either internally or externally illuminated.

(2) through (4) [No change.]

(b) through (d) [No change.]

§142.1291 Ocean Beach Sign Enhancement District

(a) Purpose of the Ocean Beach Sign Enhancement District

It is the purpose of the Ocean Beach ~~*Sign*~~ Sign Enhancement District to maintain, preserve, and promote the distinctive commercial signage of the Ocean Beach area and to regulate identification of commercial enterprises within the Ocean Beach community's Newport Avenue commercial core area. *Signs* in the commercial core area shall reflect the goals of the Ocean Beach Community Plan and Commercial Improvement Program. It is the intent of the Ocean Beach ~~*Sign*~~ Sign Enhancement District to acknowledge and preserve design elements of the area's initial major period of *development* during the decades of the 1920's to 1940's. Neon tubing and other design elements that reference this era are encouraged, if feasible, as elements in new or renovated *signs*. In addition to those types of *signs* currently permitted by the ~~*Sign*~~ Sign Regulations, Category C, as set forth in Chapter 14, Article 2, Division 12, certain additional types of *signs* are specifically permitted and other additional types of *signs* are specifically prohibited in the Ocean Beach ~~*Sign*~~ Sign Enhancement District, as set forth in this section.

(b) Boundaries

The boundaries of the Ocean Beach ~~*Sign*~~ Sign Enhancement District are designated as those boundaries set forth for the Pedestrian Commercial Overlay Zone in Ocean Beach on that certain Map No.C-747; and that certain Map No. C-772, Maps "A" and "B"; and on file in the office of City Clerk under Document No. 769627 and Document No. 272788, respectively.

(c) *Signs*

The following types of *signs* are permitted in addition to those types of *signs* permitted by Chapter 14, Article 2, Division 12, ~~*Sign*~~ Sign Regulations Category C. Permitted *signs* shall be maintained or erected in conformance with all applicable building regulations in Municipal Code Chapter 9, Article 1, and the regulations concerning total permitted *sign* area as determined by the applicable sections of the ~~*Sign*~~ Sign Regulations. Those existing *signs* permitted by subsection (1) of this section are hereby exempted from the total permitted *sign* area regulations noted in subsections (2), (3) and (4) of this section and from the total permitted signage area regulations permitted by the ~~*Sign*~~ Sign Regulations.

(1) Existing *projecting signs* that extend above the *roof line* are permitted, if installed before the adoption to the City-Wide ~~*Sign*~~ Sign Ordinance on March 6, 1973. Retention of one such *sign* per 50 feet of *street frontage* is permitted, subject to all applicable regulations set forth in Chapter 14, Article 2, Division 12. No

other *projecting signs* (those provided by subsections (2), (3), and (4) following) are permitted with the retention of an existing *projecting sign* extending above the *roof line*.

(2) through (4) [No change.]

(d) [No change .]

(e) Abatement

All *signs* are subject to the abatement procedures as set forth in Chapter 12, Article 1, Division 5, (Sign Violations and Enforcement Procedures), except that those *signs* specifically prohibited in this district and typically allowed in the ~~*Sign*~~ Sign Regulations, which are not in compliance with this section shall not be subject to abatement.

§143.0101 Purpose of Environmentally Sensitive Lands Regulations

The purpose of these regulations is to protect, preserve and, where damaged restore, the *environmentally sensitive lands* of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that *development,* including, but not limited to *coastal development* in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of *development*, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to *flooding* in specific areas while minimizing the need for construction of *flood* control facilities. These regulations are intended to protect the public

health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

It is further intended for the Development Regulations for Environmentally Sensitive Lands and accompanying Biology, Steep Hillside, and Coastal Bluffs and Beaches Guidelines to serve as standards for the determination of impacts and mitigation under the California Environmental Quality Act and the California Coastal Act. These standards will also serve to implement the Multiple Species Conservation Program by placing priority on the preservation of biological resources within the Multiple Habitat Planning Area, as identified in the City of San Diego Subarea Plan. The habitat based level of protection which will result through implementation of the Multiple ~~h~~Habitat Planning Area is intended to meet the mitigation obligations of the Covered Species addressed. In certain circumstances, this level of protection may satisfy mitigation obligations for other species not covered under the Multiple Species Conservation Program but determined to be sensitive pursuant to the CEQA review process. This determination will be addressed in the environmental documentation.

§144.0504 Vacancy Rate Determination and Suspension of Relocation Payment

(a) On or before ~~April~~ March 1, 200~~5~~6, and each year thereafter, the Planning Commission shall determine that if the average vacancy rate for residential rental units exceeded seven percent on a City-wide basis for the previous calendar year, then the payment of relocation benefits pursuant to ~~s~~Section 144.0504(a) shall not apply to *condominium conversions* in the calendar year starting ~~April~~ March 1 of that year.

(b) Each year, Planning Department staff shall submit to the Planning Commission ~~in March of each year~~ a report identifying the vacancy rates for residential rental units in the City as of January 1 of that year, and July 1 of the preceding year. The report shall also include an annual average. The report is to be based on the results of a survey of rental apartments to be taken during the months of ~~January and July~~ March through May and again during the months of September through November of each year, plus any other information regarding vacancy rates submitted to the Planning Commission by other governmental agencies and other interested parties.

§145.0410 Regulations for Buildings Not Classified as Essential or Hazardous Facilities

(a) through (c) [No change.]

(d) The removal, stabilization, and bracing process shall include the provision of roof-to-wall anchors around the perimeter of the entire building. Existing roof-to-wall anchors must meet, or shall be upgraded to meet, the minimum requirements of Section A113.1 of the 1997 UCBC Appendix Chapter 1, or new anchors meeting the minimum requirements of Section ~~A110(a)~~ A113.1 shall be installed.

(e) through (f) [No change.]

§145.0425 Regulations for Buildings of Archaic Unreinforced Masonry

(a) through (b) [No change.]

(c) Existing or re-erected walls of adobe or stone shall conform to the following:

(1) Exterior bearing walls of unreinforced stone masonry shall not exceed the height-to-thickness or length-to-thickness ratio, and exterior walls of unreinforced adobe masonry shall not exceed the length-to-thickness ratio, specified in Table No. A-1- B of the UCBC Appendix Chapter 1. Exterior walls of unreinforced adobe masonry shall not exceed a height-to-thickness ratio of 6 to 1 for Seismic Zone No. 3, or a ratio of 5 to 1 for Seismic Zone No. 4. The walls shall be provided with a reinforced concrete bond beam at the top that interconnects all walls. The bond beam shall have a minimum depth of 6 inches. The bond beam may have a width equal to the width of the wall less 8 inches, provided the resulting width is not less than 8 inches. Bond beams of other materials or seismic retrofit designs may be used with the approval of the Building Official.

Exterior bearing walls shall have a minimum wall thickness of 18 inches in Seismic Zone Nos. 3 and 4. Interior adobe partitions shall be a minimum of 10 inches in thickness. No adobe or stone structure may exceed one story in height unless the historic evidence, satisfactory to the Building Official, indicates a two-story height. In such cases, the height-to-thickness ratio shall be as above for the first floor based on the total two-story height and the second floor wall thickness shall not exceed a ratio of 6 to 1. Bond beams shall be provided at the roof and second floor levels.

(2) Foundations shall be reinforced concrete under newly reconstructed walls and shall be 50 percent wider than the wall above, soil conditions permitting, except that the foundation wall may be 4 inches less in width than the wall if a rock, burned brick, or stabilized adobe facing is necessary to provide authenticity.

(3) New or existing unstabilized brick and adobe brick masonry shall test to 75 percent of the compressive strength required of new materials by the ~~1998~~ 2001 California Building Code, as adopted by the City. Unstabilized brick shall only be used where existing brick is unstabilized and where the building is not susceptible to flooding conditions or direct exposure . Adobe may be allowed a maximum value of 3 pounds per square inch for shear with no increase of lateral forces.

(4) Mortar may be of the same soil composition and stabilization as the brick, in lieu of cement mortar, if cement mortar is required for new materials under the ~~1998~~ 2001 California Building Code.

(5) Nominal tension forces due to seismic forces that are normal to the wall may be neglected if the wall meets thickness requirements and shear values allowed by this Section.

(d) Allowable stresses for archaic materials not specified in the ~~1998~~ 2001 California Building Code, as adopted by the City or in this division shall

be based on substantiating research data or engineering judgement with the approval of the Building Official.

HRM:cfq
12/27/05
Or.Dept:DSD
O-2006-88
MMS#2207